Supreme Court
FILED

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No. 00-3-421

In The
Supreme Court of the United States

CHERYLYNN COSTNER; LET GO PRODUCTIONS,

PETITIONERS,

v.

COMIC RELIEF, INC.; HOME BOX OFFICE; ROBERT ZMUDA; JOHN DAVIES; JOSEPH TROIANI, PH.D.; DOLLY KELLERHOUSE; STATE BAR OF CALIFORNIA; MITCHELL, SILBERBERG & KNUPP; WELLCOME; FIENMAN & APPLEGATE; CALIFORNIA STATE JUDICIARY; CALIFORNIA STATE LEGISLATURE; AMERICAN BAR ASSOCIATION; GOVERNOR PETE WILSON; COUNTY OF LOS ANGELES; STATE OF CALIFORNIA; DOES 1 THROUGH 92,

RESPONDENTS.

ON PETITION FOR WRIT OF CERTIORARI TO THE 9TH CIRCUIT COURT OF APPEALS.

PETITION FOR WRIT OF CERTIORARI

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35 pp

QUESTIONS PRESENTED

The United States Court of Appeals for the 9th Circuit de novo review denied the appeal of a District Courts conspiracy to deprive civil rights case. The lower courts' Breach of Judicial Duty, and continual denial to Petitioners of fundamental due process and equal protection under the law, raises five substantial federal questions of national importance that warrant immediate review by this court:

1. Does the United States Constitution allow rich and powerful men the right to use the legal system to destroy the civil rights of females, sexual discrimination in the extreme?

2. Was it the intent of the Founders to allow judges special privileges to lie about facts and law to support unjust judgments under a Sovereign Immunity Doctrine?

3. Is it unconstitutional for the Inferior Courts to deny a Pro Se Litigant due process and equal protection as in Star Chamber proceedings where court officers are required to cover up for the betrayal of other lawyers on the bar or the bench?

4. Was it the intent of the Founding Fathers to allow the undermining of the United States Constitution's Commands for the Separation of Powers by allowing State Bar Licensed Lawyers to have virtual control over all branches of Government?

5. Is it not the constitutional duty of this Court to prevent our Country from descending into lawlessness and anarchy because *"We the People"* are denied meaningful access to the Courts?

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PETITION FOR WRIT OF CERTIORARI

Petitioners Cherylynn Costner and Let Go Productions respectfully prays that a writ of certiorari be issued to review the judgment of the 9th Circuit Court of Appeals in this case. In plain contravention of the requirements of the Constitution of the United States and federal law, the 9th Circuit Court of Appeals has embarked on a standardless, and lawless exercise of judicial power, which appears designed compound the violations of the Ku Klux Klan Act and to further the deprivation of civil rights of as stated in the first amended complaint for damages.

The inferior courts have refused to face the facts stated in the instant complaint or follow controlling law for civil rights cases to rule in favor of famous media and government defendants and against the pro se plaintiff. Thereby dismissing the entire case without ever granting leave to amend, or a hearing for the factual findings based on disputed facts wrongfully advanced in the defendants motions to dismiss.

Access to the court must be meaningful as set forth in the Constitution and congressional enactment, as well as by state law, the court's decision involves issues of the utmost *federal* importance.

OPINIONS BELOW

On August 24, 2000, the U.S. Court of Appeals for the 9th Circuit **(9th Cir.)** issued a final order which upheld the U.S. District Court, Central District of California's dismissal of Petitioners **1st Amended Complaint for**:

(1) Violation and Conspiracy to Violate the Ku Klux Klan Act of 1871, Deprivation of Civil Rights as per Title 42 U.S.C. 1981, 1982, 1983, 1985, 1986;

(2) **For Violation of R.I.C.O.** (Racketeering) Title 18 U.S.C. 1961, 1964;

(3) **Breach of Judiciary Duty;**

(4) **Violation of Federal Anti-Trust Laws;**

(5) **Violation of Separation of Powers Doctrine;**

(6) **Breach of Contract;**

(7) **Negligence;**

(8) **Intentional Infliction of Emotional Distress;**

(9) **Conversion;**

(10) **Slander and Libel;**

(11) **Negligence Per-Se;**

(12) **Fraud;**

(13) **Injunctive Relief;**

(14) **Demand for Jury Trial,**

without ever granting leave to amend, as the 1st amendment was prior to the service of complaint on opposing parties.

JURISDICTION

On August 24, 2000 the United States Court of Appeals for the 9th Circuit issued a final ordered and "*closed appeal*." This court has jurisdiction over final judgements in the Circuit Court 28 U.S.C. 1291. Petitioners Writ Of Certiorari is timely submitted and complies with the provisions of Supreme Court rule 10. (a).

I.
REASONS FOR GRANTING CERTIORARI

One of the oldest common law rights, which was signed into statutory law by the **1st President of the United States George Washington** prior to the ratification of the Bill of Rights, was the right of Americans to act as their own lawyers. The Trial of William Penn and William Mead (1670) 1 Schwartz 144; 6 How St. Tr. 951 (1670); Haines v. Kerner 404 U.S. 519. However, today private bar corporations with special interests for professional lawyers have done everything in their power to obstruct individual Unites States born citizens from litigating their just causes. In spite of this oppression and prejudice, some very important and precedent setting cases have been brought to the Court's attention by tenacious Pro Se litigants. One such case, Gideon v Wainwright 372 U.S. 335, caused this Court to require that attorneys be for those individuals who could not afford one in state court criminal proceedings.

From the very beginning of this case, the defendants, their high powered attorneys and the State and Federal Court Judges have been willfully obstructing petitioner's meaningful access to the Courts in **violation of the US Const. Amend. 1 sec. 9 (*titles of nobility*), 4 (*due process*), and 14 (*equal protection*)** and the Bill of Rights seventh amendment stating that: ***". . .the right to trial by jury shall be preserved."***

The Circuit Court Judges have shown bias for personal interests in the outcome of the case because it sues for damages against defendants within the State of California government and defendants of celerity status and power in the entertainment industry, which include Robert Zmuda (Bob Zmuda). **Bob Zmuda** is famous for his appearances in **Comic Relief** charity events with a star studded cast hosted by multi-million dollar box office attractions that begin with **Robin Williams, Billy Crystal** and **Woopie Goldberg**. Controlling law requires Petitioners in civil rights cases to be

given leave to amend, and the 1st amended complaint before the court was amended before it was served to any of the defendants. In addition, the lower Courts have shown discrimination against Costner because is a woman litigating her case in pro se and they don't want briefs documenting the professional misconduct of officers of the Court being entered into public record.

This case is a textbook example of corruption within our legal system. Defendants have made a mockery of the constitution. Such ill intent is a clear and present danger to the lives, liberty and property of Ms. Costner and all in America. Therefore, certiorari should be granted in the interest of the Peoples' justice.

The 9th Circuit denied petitioner due process, failed to conduct an independent review of the record, the merits of this case or the controlling law. The appellant court refused to hear oral arguments and set a secret hearing to arbitrarily deny petitioner's appeal. They made no order in the form of an opinion to address the issues of the appeal. The memorandum of their decision is attached, app. p.15.

The lower Courts orders are the same for all defendants before the court. In violations of the Separation of Power, please see appendix p.19, where all the branches of the California government and the state defendant are dismissed as "State Defendants", app. p. 19. In the appendix is the lower courts improper ruling in favor of defendants Comic Relief, Inc., Robert Zmuda and Dolly Kellerhouse (erroneously dismissed as Florence Kellerhouse) claiming findings based on their motion to dismiss which improperly argued facts within the instant complaint of which can not be allowed by the court rules and controlling law in motions to dismiss, see appendix p.18; www.costnervcomicrelief.com

II

The United States Constitution protects the rights of all Americans not only those who have money and power.

Cherylynn Costner, who has never been to law school, armed only with her patriotic beliefs expressed by America's Founding Fathers, has in pro se pursued justice out of moral outrage over the betrayal of the very governing principals of our nation. Betrayal executed by a legal system of lawyers and judges who have consistently through acts and omissions lied about facts and law, willfully refused to follow statutory controlling law or their own procedure. Petitioner contests their confident feeling that they can get away with their criminal and treasonous acts in this case, which on their face would have been judged by the Founding Fathers to be a wanton rebellion against the Supreme Judge of the Universe and high treason against the American People.

The Judges in collusion with defendants willfully violated the most rudimentary principals of decency and justice, taking advantage of her because she was a woman who was forced to defend herself without professional help. The Judges revealed their prejudice by acting as one with defendants, deprived petitioner of meaningful access to the courts, her right to be heard or due process, where all the rights expected by any civilized people, much less the commands of the United States Constitution, were reduced to nothing less than a farce, a sham and a nullity.

> ***"The Court has a Constitutional Duty to confine an inferior Court to a lawful exercise of prescribed authorities, and to compel it to exercise its authority when it is its duty to do so,"*** Marbury v. Madison, Cranch 137

III

It is the responsibility to have this Court to preserve a rule of law and not the rule of men.

The allegation that judicial absolute immunity is unconstitutional is one of the major issues raised in plaintiffs Ms. Costner and Let Go Productions' initial complaint. Plaintiff's instant complaint states that these defendants conspired to deprive her of her civil rights. **United States Supreme Court Justice Brandas** warned over sixty years ago that if the government, which the Courts are part of, do not scrupulously obey the law that we will have anarchy. The Judiciary Act of 1789 no. #13, U.S. Supreme Court, U.S. Ex REI Crawford v. Addison 22 HOW 174.

> *"This Court is compelled to use its authority and Power to protect the integrity of our Constitution, the integrity of our Judicial System, and to use the vehicle of the Writ of Mandamus probably to accomplish this,"* U.S. Martinez 667 F2d 886; 28 U.S.C. 1361, 1651.

The instant complaints cause of action on Breach of Judicial Duty requires a jury to decide the facts and the law.

Does the United States Constitution allow any state or federal judge to ever disregard truth, facts, law and even their own court rules to give the powerful elite a winning decision? The defendants and certain members of the Judiciary have alleged that the criminal acts they intentionally, knowingly and willfully committed against Cherylynn Costner and Let Go Productions and in favor of all defendants are un-punishable under their self-granted protections of the Sovereign Immunity Doctrine. The fact is that, to the contrary

of defendant's opinion, there is not any branch of the government in the United States that is, or ever was, a sovereign. In the United States, it is *"We the People"* who are the sovereigns.

The only lawful immunity the government defendants could have under the provisions of the doctrine would results from an accident or mistake committed through the functions of their duties (under the oath of their office to uphold the United States Constitution) as administrators of justice.

The United States Constitutions' civil right given to petitioner to redress government means that when these entities and employees willfully conspire to undermine petitioners' constitutional protections they have completed acts outside of their job duties and are committing high crimes against We the Government (people); Declaration of Independence (In Congress July 4, 1774). To allow evil plotters, who pretend to be fair and honorable judges, to give themselves immunity is like Frank James giving Jessy James immunity to rob banks or for the Dictator of NAZI Germany Aldoph Hitler to give China's Chairman Mow immunity for the murdering of millions of his own people.

> ***"Under stare desisisi, all tribunals exercising inferior jurisdiction are required to follow decisions of courts exercising superior jurisdiction,"*** Auto Equity Sales, Inc. v. Superior Court (**9th Cir.** 1962) C.R. 57, 2d 454-459.

The controlling law regarding pleading requirements in pro se civil rights cases are clearly defined requiring leave to amend and a list of deficiencies if there were any, Noll v. Carlson 809 F.2d 1446 (**9th Cir.**); Bretz v. Kelman 773 F.2d 1026, 1027 n. 1 (**9th Cir.** 1985) (en banc) and "*must construe the*

pleadings liberally," Karim-Panahi v. L.A.P.D. 839 F 2d 621, 623 (**9th Cir.** 1988).

The Founding Fathers established a **new nation under God** and of laws where nobody was, is or ever can abide by the United States Constitution and be placed above the law. The violation of these laws will eventually bring divine retribution upon the entire nation. In quoting the 3rd President of the United States, **Thomas Jefferson,** ***"I tremble for my Country when I reflect that God is just."***

Furthermore, in violation of the Federal Rules of Civil Procedure, rule 11 the government defendants seek to delay the entire proceedings and compound their depravation of Petitioners rights by misapplying the Sovereign Immunity Doctrine for a purpose that it was *not* intended.

> *"The equal protection clause of the US Constitution 14 amendment provides that a law that is used for a purpose that it was not intended, is grounds for Purposeful Availment of the Law,"* Arlington Hieghts v. Metropolitan Housing Corp 429 US 256.

Petitioners request certiorari for your fair and truthful review of the record in this case so that the case will be remanded back to the district court for a full trial on the merits before impartial judges.

IV

Professional lawyers and their bar associations alleged violations of Anti-trust laws and Racketeering Influenced Corrupt Organization having created a monopoly on the practice of law with the exclusive access to meaningful access to the court is unconstitutional.

As a result of the unconstitutional monopoly that the state bar licensed lawyers have established over our legal system, the government and courts they have willfully created a system where only those with unlimited resources can expect to have meaningful access to the courts and justice. In this fixed system, defendants Bob Zmuda, Comic Relief, Inc., Home Box Office et. al. with their money, celebrity status and political influence can totally flaunt the law like an organized crime syndicate and have their criminal activities covered up and protected by the legal system which very purpose is to protect to weak from the strong.

The defendants and their lawyers in collusion with other lawyers, who had been appointed to be judges, from the beginning of this case up through and including the **9th Circuit Court of Appeals,** have willfully lied about facts, law and even refused to comply even with their own rules. The judges at every opportunity acted as advocates for defendants even though defendants had retained top legal talent to protect their interest. As a result of this immoral and unconstitutional monopoly the judges have willfully used their office to deprive Petitioner of any hearing on the merits or to develop a factual record for appeal. Adding insult to injury, the lower courts advance for defendants an order that Costner can not seek remedial relief for damages without the use of a member of their exclusive private bar corporation at her financial expense Let Go Productions, an unincorporated business of which she is sole proprietor.

The defendants multiple attorney's have a reputation of being some of the top legal talent in the State of California if not the nation, consistently in the past appellant has been discriminated against and rights violated because she did not allegedly meet the mythical standard of a practicing lawyer. These lawyers however make error after error without excuse, as they know the rules require certain actions on their part, which they have willfully refused to comply with.

For example, the 9th Circuit Court of Appeals ordered Ms. Costner In Pro Se, to re-submit her appellant's opening brief with multiple copies to the court and all of the defendants her because it was one font point off (12 instead of 13) before the clerk would file her documents. Ms. Costner resubmitted at great expense of time and money for second copies and shipping. The California Attorney General' reply briefs failed to have the address, telephone number and State Bar number of the attorney on the front page of the brief to be filed by the clerk. Mr. Zinger, Deputy Attorney General, with his staff of assistants was able to have their reply briefs filed containing numerous transgressions of the required compliance with the rules. His errors far more deviating from the rules than for a pro se litigant to be one type point font off.

Further proof of the monopoly is that the Separation of Powers Doctrine requires three individual branches of government to have separate interests and duties. How then can one lawyer, especially Theodore Zinger who is an employee of the executive branch of government, specifically the Attorney General's office, represent the California State and its Governor, Judiciary and the Legislature? Furthermore, as a sovereign citizen of the State of California, Deputy Attorney General Zinger has been grossly negligent in representing the people's interest, which raises the specter as to whether he is even competent to represent anyone at all much less the people of the great state of California. If this

court will take action to dissolve the monopoly on the practice of law, the defendant's professional lawyers, including the Deputy Attorney General of the State of California, would have to meet at least the minimum standard required by newly admitted state bar licensed lawyers as Costner In Pro Se has been held throughout the proceedings. The playing field should be level.

> ***"Star chamber stood for swiftness and power; it was not a competitor of the common law so much as a limitation on it,"*** Faretta v. California 422 US 806, 821.

These issues are of national importance and of a constitutional magnitude. Therefore, to protect the integrity of our judiciary Petitioners request that the United States Supreme Court accept certiorari, and use Costner's suffering and sacrifice as a means of checking this evil monopoly on law and restoring to America *"justice for all."*

V.

Petitioners constitutional right to fair notice, due process and equal protection of the law can not be waived by the court based on her gender.

The petitioner Cherylynn Costner's father, **Rt. Lt. Col. Hewlette Rogers Brown** taught his daughter at a young age about the Bill of Rights and the Declaration of Independence and it was for this premise that incalculable numbers of Americans have fought and died for. He had personally lost many good men under him, friends and commerads alike, fighting for the very rights that his daughter is being deprived. She knew first hand through her father, who was awarded the Silver Star for gallantry in action as a **World War II Unit (5) Tank Commander** with the Fourth Infantry Division under General George Pattons' Third Army during three campaigns in Germany, the value of civil rights and the consequence of losing civil rights. Her father had also assisted in the organizing of the original Nuremberg War Crimes Tribunal of Nazi Government officials. From his first hand knowledge, Rt. Lt. Col. H. Rogers Brown has stated many times that he has noted a ***"distinct parallel between the judges and lawyers in this case, and the arrogance of he defendants in the 'Nuremberg War Crimes Tribunal.'"***

The **Nuremberg War Crimes Trial** ironically was based upon the trial at the Confederate Prison at Fort Sumpter where the findings were that the following of the orders of a superior that violated both moral and lawful conduct was no defense against the charges of crimes committed. It is also interesting to note that in federal criminal law there is a Jewel Doctrine that holds also that willful ignorance is no defense. Plaintiff Costner was brought up to believe that the United States Constitution and the rule of law are sacred in America where the rights of women and children were honored by the courts as much as the rights of men.

Ms Costner has no formal legal training, law firm staff of assistants and paralegals, nor has she been paid to litigate this case as are the other attorneys who earn more income the longer they can keep the case in court. Yet, due to judicial discrimination against her and in favor of the defendants Costner and her just cause have been forced to endure a legal charade since April 15 of 1994 in the Los Angeles County Superior Court, in the State of California, Zmuda v. Brown. LA. Cal. Superior Court no. BS 28195.

Through out this case the defendants have raised as a straw man their major issue that Ms. Costner had no rights because she and Mr. Zmuda where romantically involved. The issue of romantic involvement as far as the business and professional relationship legally is totally irrelevant. However, it does show the manifest evil inflected upon Ms. Costner by Mr. Zmuda, who engaged in the greatest possible evil of betraying a trust not only of a friend but also of an individual who had assisted him in achieving his business goals; US Const. 13 amend. Bob Zmuda intentionally used an emotional attachment to him that he had encouraged for the purpose of conspiring to deprive her of her civil rights, making Ms. Costner a vulnerable victim in the extreme; Griffen v. Breckenridge (1971) 403 US 88.

One of the projects that Ms. Costner and Let Go Productions was to produce with Mr. Zmuda was a Tony Clifton story similar to the recently released multi-million dollar theatrical feature film Man on the Moon in which defendant Robert (Bob) Zmuda was an Executive Producer. Man on the Moon was released after the 1st Amended complaint was filed at the District Court being a successful movie at the box office and the film had a character which was a manipulative deceitful person that was a mirror image of himself and was even named Bob Zmuda. This is just one small example of the income lost by Ms. Costner by Zmuda's

treachery and betrayal. Even though Tony Clifton was mentioned in the instant complaint the prejudice of the Courts against Costner and in favor of Zmuda and his co-conspirators/co-defendants denied plaintiff of all of her rights to a hearing on all causes of action to establish damages for proper remedy.

Not only was Costner deprived the financial and business arrangement promised by Zmuda but even worse he schemed to totally destroy her, her career and Let Go Productions by conspiring to have her go out of town and in her absence changed the lock on her home/office doors left her penniless and homeless while mockingly telling her that she had no rights because ***"my lawyers are bigger than your lawyers"***. The court record undisputedly states that Zmuda claimed to have ***"Nazi tendencies."*** Hitler aimed to destroy the constitution by lack of due process. In 1920, Hitler took the name Nationalsozialische Deutsche Arbeiterpertei National Socialist Workers Party) and called for the Jews of Germany to be deprived of their civil rights.

> *"The Nazi camp system effected every aspect of the prisoners lives, achieving its purpose by exposing the prisoners to intolerable living conditions . . . and generally seeking to Humiliate the prisoner in every possible way,"* Encyclopedia of the Holocaust, vol. 3, p. 1148.

Zmuda admired Hitler's use of comic mediums to reduce the perspective of civil rights of the Jewish people in Germany Societies. We are Americans in the United States and not Germans. Zmuda's right of freedom of speech may allow him to abuse women in the name of comic entertainment, as he appears to have made a sport of it with old clients like Actor/Comedian **Andy Kaufman** whose life story was featured in the film Man on the Moon. Zmuda's abuse of women does not belong in the Courts for laughs. Such abuse are grounds for Costner to prove damages and it

is the Court's duty to protect Costner from Zmuda and his co-defendants reckless disregard for women's civil rights.

Petitioner advances the fact that the fourth and fourteenth Amendment of the US Constitution provides its rights to both women and men. Therefore the Court's have caused irrefutable harm to petitioner by their perpetual use of an irrelevant romantic relationship to obstruct justice in this case.

VI

The United States Constitution commands justice for all and it creates an incurable conflict of interest for the courts to obstruct justice for the sake of a parties' money and political influence.

There appears to be a large element within our legal system which, include State Bar licensed lawyers and lawyers acting as judges, who have reached a Secret Agreement amongst themselves, of what amounts to an unwritten doctrine. This *"Secret Agreement"* hold that the US Constitutions' commands and protections apply exclusively to the rich, powerful and politically connected. People who do not have money to hire high priced and politically connected state bar licensed attorneys in fact have no rights against such predatory power.

The petitioner has been discovering that she is not alone in being a victim of this manifest corruption in our legal system. The general public opinion is coming to the sad reality that imposters of justices have invaded our sacred legal system. As is evidenced in this case, now the system is fixed to only give the illusion of the rule of law and constitutional commands. The Court's unconstitutional application of law in the interest of those who have the most money and influence to have their way regardless what is right, just or the rule of law has taken on the appearance more of a black art of Voodoo and hocus-pocus.

The un-constitutional monopoly on the practice of law deprives *"We the People"* of the right to be independent sovereign counselors at law whose loyalty like that of President of the United States Abraham Lincoln lies with their own personal integrity and the exclusive interest of their client and not that of the legal establishment or the State as in Star Chamber courts, **Due Process and Slow Process in the**

Late Elizabethan-Early Stuart Star Chamber, 6 Am. J. Legal History 221-249, 315-346 (1962).

With the Bar's power to revoke a lawyer's State Bar license and to punish lawyers who displease the power elite or the government, very few lawyers are willing to risk their careers in the interest of truth and justice for those like the petitioner in this case.

Whenever individual citizens, such as petitioner, who can not afford or can not trust a lawyer to truly protect their rights and begins to reach a level of competence, the judges themselves begin to display their real function as lord high protectors of the rich and powerful. As proven in this case, the lower courts willfully lie about facts, law and evidence willfully refuse or obstruct pro se litigant such as petitioner from making their just cause having meaningful access to the courts. In fact, as the Brown v Zmuda record shows, in the State Superior Court, Judge Joseph Kalin informed plaintiff Cherylynn Costner that because she was not a lawyer he would not allow her to litigate her case before the court.

> *"If there is any truth to the old proverb that 'one who is his own client has a fool for a client,' the Court by its opinion today now bestows a constitutional right on one to make a fool of himself,"* J Blackmun, dissenting, Farretta v. California 422 US 806, 852 (June 30, 1975)

Furthermore, in the federal courts when plaintiff in pro se made various defenses including a default judgement against defendants, District Court Judges began acting as lawyers for the defendants.

Finally, Costner's legal skills obtained sufficient competence to win her argument before the California Court of Appeals compelling the court to issue a remitter in her favor. When the Court remanded the case back to Judge

Kalin for a trial on the merits, not only did the judge ignore the Court of Appeal's instruction by failing to schedule a hearing, the entire court file mysteriously was closed and disappeared according to the court clerks. This is a shocking example of the extent that the legal system and judiciary will go to obstructing even an unlearned in law pro se litigant, who against all odds through perseverance was able to finally prevail to at least have her case heard on the merits.

This is further evidence of the pattern, custom and practice of judges knowingly believing a lie, specifically on point is, the defendants' res judicata argument in the Federal Court that the Brown v. Zmuda had already been decided in the State Court when to this day it has not. The District Court Judge and the 9th Cir judges denied petitioner the right to be heard based on this known lie.

VII

US Constitution and Congress never authorized state and federal lawyers appointed as judges to manufacture facts and law at their whim.

The corruption of the Judiciary and the betrayal of constitutional commands constitute a clear and present danger to the lives, liberty and property of all in America.

> *"This is a difficult case because the Court must review the actions of other judges. The issue is even more difficult because the allegations include not just disputed legal interpretation but also a lack of due process. The Panel Circuit Judges' submitted Memorandum reflects an unwillingness to address or even acknowledge a substantive violation of appellant's rights to due process and equal protection of civil rights,"* Appellants' Motion for Rehearing Enbanc, appendix page 4.

The California Constitution Article 4 section 6 also provides that all laws of general nature have uniform operation. How then did the defendant Los Angeles County, California State Superior Court Judge Cardinas sue sponte waive California Civil Codes to relieve Robert Zmuda's of personal liability in wrongful conversion of Costner's personal property? Cardinas' arbitrary order put Costner, who was homeless at the time, at an extreme disadvantage. After the capricious, ruling Costner left the courtroom and where in the court hallway Mitchell, Silberberg & Knupp attorney, Yakub Hazzard(SBN 150242) accompanied by two thugs threatened Costner and her paralegal with physical harm if she attempted to fight for her rights any longer. *"Organized terror while fighting was going on, the terrorist's main purpose, was to serve as a deterrent,"* Encyclopidia of the Holocaust, vol. 3, 1148. Mr. Hazzard's illegal conduct was immediately reported to his law firm and the State Bar of California who react to Hazzards conduct as if it's just routine business, no action was taken to protect Costner by these

officers of the court. In the mail Costner suddenly received notice that Judge Cardinas without any motion filed by either defendants or plaintiff for a change of venue, transferred the entire case to the Superior Court of Modoc County at the state boarder California and Oregon. The court ordered her to file any papers and appear in order to move the court to correct their cruel violation of the laws preventing conspiracies to deprive her of civil rights under the color of the law. The civil rights depriving move by Judge Cardenas to intentionally protect Comic Relief's President Bob Zmuda made proceeding in that case impossible.

> *"**The Star Chamber** not merely allowed but required defendants to have counsel. The defendant's answer to an indictment was not acceptable unless it was signed by counsel. When Counsel refused to sign, for any whatever reason, the defendant was considered to have confessed. Stephen commented on this procedure: **'There is something specially repaginate to justice in using rules of practice in such a manner as debar a prisoner from defending himself, especially when the professed object of the rules so used is to provide for his defense."*** Faretta v. California 422 US 806, 830 (1975)

The Court obstructed Costner's access to the courts by ordering her file and make appearances on any further pleadings exclusively at the Modoc Court house. The Superior Court of Modoc County is a 16 - 20 hour car drive (four day trip round way) from Los Angeles. Zmuda had conspired to make her homeless and broke and needing to depended on public transportation, which the court knew from the record that she was suffering from economical battery Zmuda had inflicted upon her.

These blatant acts of denial of fundamental due process and equal protection in this case constitute a clear

and present danger to the lives liberty and property of all in America. In addition, such obstruction of justice by joint players constitute a conspiracy to effect the defacto over throw of the United States Constitution and replace it with a form of despotism.

The integrity of the entire legal system now stands in jeopardy by this greatest possible betrayal of the public trust by State Bar licensed lawyers and judges. It is this courts' right and duty through its supervisory responsibilities and as guards of our liberty while there is yet time to restore the credibility and the integrity of our legal system before the American People are forced to take matters into their own hands and to protect our collective liberty.

VIII

JUSTICE DEMANDS THAT A FAIR AND IMPARTIAL JUDGE PRESIDE OVER THE HEARING IN THE DISTRICT COURT WITH A TRIAL BY JURY.

There is an incurable conflict of interest between the District Court Judges and the defendants in this case. The judges are acting as advocates for the rich and powerful and discriminating against pro se litigants as a pattern, practice and custom. Podlasky v Price (1948) 87 CA 2d 151 states that the conduct of a judge in making statements calculated to intimidate the litigants and council and to confuse the witness is grounds for reversal.

Plaintiff has been denied meaningful access to the court. Allowing plaintiff to file documents with the court does not mean that she has in fact access to the Court. The access must be meaningful. *"History shows that the practice of law in its nature can be the noblest and most beneficial to mankind, however through its abasement become the sordid and pernicious as warned by Lord Bolingroke"* People EX. Rel Buckley v. Salonon 56 N.E. 815, 818-819. Ryland v. Shapiro 708 F.2d 967, 1983.

The 9th Circuit Court of Appeals failed its duty as protectors of civil liberties by further advancing factual findings unlawfully advanced in the District Courts granting of motions to dismiss. The record shows the Court did not allow petitioner any evidentiary hearing to dispute the factual validity of the allegations claimed in to motions to dismiss.

In addition, the defendants State Bar of California, County of Los Angeles, Mitchell, Silberberg & Knupp, Wellcome, Fienman & Applegate, & John Davies were Entered into Default by the United States District Courts' Clerk. The District Court Judges lied about facts in their *sue sponte* rulings their own motion on behalf of defendants **State Bar of California, County of Los Angeles, Mitchell,**

Silberberg & Knupp, Wellcome, Fienman & Applegate. The Magistrate Judge Virginia Phillips claimed that she relieved them of default because they *timely* filed. The order failed to specify how it was timely when the actual dates on all the original courts filed motions were not all file stamped or served on or before the day the moving documents were due, and the record contained no other evidence entered by defendants. In fact, under the protection of the biased District Court Judges, Wellcome, Fienman & Applegate never had to follow the courts rules or instructions on the Summons to serve the plaintiffs a copy of the motion to dismiss her complaint. Therefore, it is not too surprising that the County of Los Angeles would have to include a file a proof of service for their motion to dismiss the instant complaint with the court as evidence of when the document was served to plaintiffs. John Davies remained in default and Dolly Kellerhouse who accepted personal service of the summon has never made a motion as directed by the Summons and the defendants pretend without supporting evidence that Dolly Kellerhouse does not exist. The Court failed to grant Costners' request that there be evidence of Dolly Kellerhouse's a.k.a "Florence" identification for the record because in was in conflict with the fact that the same law firm, now defendant Mitchell, Silberberg & Knupp, submitted a perjured declaration to the court made by her April 15, 1994 and was granted an order for Dolly Kellerhouse soon thereafter.

It is self evident from the record in the lower court that the judges were acting as the lawyer for defendants. There were strong indications of extra-judicial communication between the trial judge and certain lawyers of defendants, what is even more shocking however, is the following evidence of the 9th Circuit Court of Appeals record which has changed the names of original precession, and or the spelling or the name or title in the court document captions listing of appellant-defendants, please see page 1 of appendix, and compare to the listing of respondents on this writs cover. Do Circuit

Courts commonly switch first names like Joseph Troiani, Ph.D. to Joe Troiani, M.D. ? Or, amend the caption to confuse appellants without notice? It is apparent that these high priced lawyers also have the ability to manipulate the out come of a decision at the court of appeals as petitioners believe that the above stated evidence represents only the tip of the ice berg of ex-parte communication. But fore these obvious slips Petitioner would never have known.

Wellcome, Fienman & Applegate did not even bother to respond to the case at the 9th Circuit Court of Appeals as they know who the Judges are working for by the time it ended up there. It is not fair that none of the defendants in this case have had to play by the rules or honor the constitution.

Whereas the judges have acted outside their judicial duty, through by acts or omissions deprive civil rights to due process in this case, petitioner requested that an impartial Article Three Judge be assigned to hear this case that had never been a State Bar licensed lawyer. District Court Judges Wm. M Byrnes, Jr. and Judge Lew not only failed to recuse themselves but also even refused to rule on the motion to have a non-lawyer preside over this case. This causes petitioner to believe that the prejudice in her case is do to the fact that in the entire federal judiciary there is not one judge who has never been a State Bar licensed lawyer.

It was the intent of the Founding Fathers to establish justice for all. The Courts were created, as part of their duty is to be guards of our liberty. The evidence in this case and from that coming from all across the country is that lawyers appointed judges are abandoning their constitutional duty to comply with the rule of law and of being guards of our liberty. Instead judges make arbitrary capricious rulings to reflect their own personal or political agendas while abandoning their constitutional mandate to be first and foremost guards of our liberty. It is obvious from Mr.

Zmuda's statements in the record that he knew that the intent of the legal systems administration of justice had been entirely corrupted. While Costner naively was brought up to believe in the principals of the Founding Fathers she disregarded Zmuda's statements alleging to her that she *"had no more rights than a slave"* and when she discovered that Zmuda was acting out his lust for power as a wealthy and powerful man with a team of Comic Relief, Inc. attorneys at his command, Costner proceeded single handedly to seek protection of her fundamentally basic civil rights to fair notice, due process and equal enjoyment and equal protection of civil rights. The protection of these rights depended on the matter to be heard before a fair and impartial Judge.

> *"**The Founders believed that self representation was a basic right of a free people.** Underlying this belief was not only the **anti-lawyer sentiment** of the populace, but also the "natural law" thinking that characterized the Revolution's spokesmen,"* Faretta v. California 422 US 806, 830 (1975)

To her surprise, Costner has discovered that Zmudas' claim of the corrupting of the People's legal system by State Bar licensed lawyers was a fact in this case had been rooted in decades of deployment by defendants in this case and is steadily getting progressively worse over the years. It appears that now the legal system takes on all the attributes of the evil tyranny that the Founding Fathers fought for our independence from England and countless others have fought and died to defend.

It is the United States Supreme Court's Constitutional duty to protect the integrity of the Court's truth seeking function and to assure that judgement is not done in secret sessions, but is done in open court before a real (uphold his oath of office) judge. The consequence of this evil is the inevitable loss of the entire government's integrity and the

loss of people's trust that their Court's will in fact administer justice to all, will be the creation of anarchy that can eventually destroy our nation. This seems to be well on its way to occurring. **Montersquitr D.L. Espirit Delois** in 1748 stated that ***"there is no more cruel tyranny than that which is exercised under the cover of law and with the color of justice"*** US v. Annottie 673 F.2d 578-614, 3d. Cir. (1982). This case is a textbook example of private corporations' professional lawyers contaminating the separation of powers and replacing the *"rule of law"* with the *"rule of the law-yers,"* corrupting our countries courthouses and legal process therein.

In the People's interest in justice Petitioner respectfully requests of this court grants certiorari so that an open court may be hear the matter with an honest and non-biased judge to preside over the proceedings and trial by jury.

IX

Petitioners' right to a fair and impartial hearing on the merits has been obstructed by defendant's excess violations of the Separation of Powers Doctrine.

Did the Founding Fathers intend for lawyers to control of all three branches of government? Petitioner believes that the Founding Fathers intended to create States, three branches of government, supportive government agencies and the respective employees including judges to be our employees. It is also important to consider that they did not and would never have ever created an American Bar Association or State Bar of California as an additional limb of the Judicial Branch to cross connect the separation of powers of the other two primary branches of government.

> *"But when a long train of abuses and usurpation, pursuing invariably the same Object evince a design to reduce them to Despotism, it is their right, it is their duty to throw off such government, and provide new Guards for their future security,"* Declaration of Indepenence, (1774)

Plaintiff has discovered that she has been the victim of an illegal and unconstitutional monopoly created by defendants **American Bar Association** and through the **State Bar of California's** licensing of lawyers and where most, if not all judges, are required by law to be lawyers first. These lawyers and judges are in fact, organs of the State, dedicated to serving the interest of the rich and powerful. These lawyers having virtual control over all three branches of government are a creation of the State and create a willful violation of the US Constitutions requirement for the Separation of Powers Doctrine. Certiorari should be issued for merit briefs on this cause of action within the instant complaint in the interest of the People's justice.

X

CONCLUSION

It is the Supreme Courts' Constitutional duty to supervise the conduct of the lower courts, as this court is the only lawfully constitutionally created court with the lesser courts being under subjection to their control and supervision. It was the intent of the Founding Fathers to have a legal system that adhered to the principals of truth and justice.

If *"We the People"* can not count upon an impartial Court as a form where disputes can be resolved by an impartial tribunal, then the courts will lose all integrity, no one will accept the authority of the courts, and as Supreme Court Justice Brandas warned *"will create anarchy, cause every man to be a law unto himself and destroy the nation."*

Petitioner closely followed the recent legal struggle between George W. Bush and Albert Gore, Jr.. She noticed with great interest the fact that they had legions of high priced lawyers descending upon courts in the State of Florida like a plague of locusts to make sure that their every real or imagined right or privilege was fully vindicated. Before this Court they had protecting their interests some of the best legal talent in the country and they had their day in court. Petitioner however, like the vast majority of individuals are being deprived of their most rudimentary rights and just causes because they are denied due process when they attempt to defend themselves acting as their own attorney and the highly technical and complicated procedure created by professional lawyers.

The American people as a result of sharing of information on the Internet **World Wide Web** increasingly

doubt the integrity and credibility of the courts to uphold our heritage and our laws. It is the increasing public opinion that the courts consider the US Constitutional commands and those of the **Supreme Judge of the Universe** for Justice to mean *"Just Us." Just Us* who have money, fame or influence, while for the rest of the people, the constitutional commands for equal justice and equal protection of law has been reduced to a farce and a sham, by the monopoly of professional lawyers who have usurped the Founders' intent for independent consolers at law, and the people's right to protect themselves or to have assistance of council in defending their rights before the court who are not state bar licensed lawyers, as they are defacto organs of the state with an incurable conflict of interest. Therefore, if justice does occurs it is an accident, while petitioner and the vast majority of people are being denied justice, due process and equal protections under the law. It is this Courts' moral and constitutional duty to check this evil like a cancer that is spreading throughout our nation.

A preview of the fruits of this evil which was warn of by Supreme Court justice Brandas has been described by the lead article in today's' Los Angeles Times, December 21, 2000 page 1. The article, Indonesian Justice Run Amok, reports the violence having been created as a result of a corrupted legal system. If justice is not quickly restored for the People in the United States, the violence in Indonesia is only a hair bringer of what can be expected to happen far worst here in America, when a greater percentage of the People wake up and discover that justice in America for most People is a cruel and worthless charade, because We the Sovereign People have been betrayed by the legal establishment and the lower courts.

This Court now has the jurisdiction and opportunity to exercise its constitutional duty to restore the integrity of our legal process and justice for all. Because it appears that the

"Emperor has no clothes on" the damage being inflected upon the rule of law and our constitutional republic may soon be beyond repair. **Then all the Kings horses and all the Kings lawyers will not be able to be able to put the Humpty Dumpty of the illusion of justice, the rule of law and the Judiciaries' integrity back together again.**

The US Supreme Court. Issued an unprecedented ruling, handed down its decision on the vote counting in the Florida State Presidential elections in part because the counting process deprived the people of due process and equal protection of the law. The issues raised by Petitioners raise an issue of far greater importance, which has to do not with the integrity of a few votes, but with the credibility and constitutional validity of the administration of justice in our courts through out this nation.

Petitioners therefore pray for this court to authorize certiorari in this case in the People's interest in justice.

Respectfully re-submitted,

Dated: March 5, 2001

Cherylynn Costner
In Pro Se, as Petitioners